

RULES OF TENNESSEE BOARD OF DENTISTRY

CHAPTER 0460-1 GENERAL RULES

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0460-1-.01 DEFINITIONS - as used in Chapters 1 through 4 of Rule 0460, the following terms and acronyms shall have the following meanings ascribed to them:

- (1) Board - The Tennessee Board of Dentistry.
- (2) Board Administrative Office - The office of the Unit Director assigned to the Tennessee Board of Dentistry.
- (3) Certified Dental Assistants - Auxiliary personnel who have been qualified through formal training in dental assisting training programs provided by educational institutions and have satisfactory completed competency testing by certifying agencies approved by the American Dental Association. Both the training program and the educational institution must be accredited by the Commission on Dental Accreditation of the American Dental Association.
- (4) Dental Assistant - A person who assists with the dental care of patients under the direct supervision of the dentist. The scope of the assistants' responsibilities is influenced by the employer, the assistants' educational preparation and testing and these regulations.
- (5) Dental Hygienist - A person who engages in those clinical procedures primarily concerned with the performance of preventive dental service not constituting the practice of dentistry and in accordance with the rules and regulations of the Board, under the direct supervision of a licensed dentist.
- (6) Dental Public Health - That specialty branch dentistry which deals with the science and art of preventing and controlling dental diseases and promoting dental health through organized community efforts. It is that form of dental practice which serves the community as a patient rather than the individual. It is concerned with the dental health education of the public, with applied dental research, and with the administration of group dental care programs as well as the prevention and control of dental diseases on a community basis.
- (7) Division - The Tennessee Department of Health, Division of Health Related Boards, from which the Board receives administrative support.
- (8) Endodontics - That specialty branch of dentistry which deals with the morphology, physiology and pathology of the human dental pulp and periradicular tissues. Its study and practice encompass the basic and clinical sciences including biology of the normal pulp, the etiology, diagnosis, prevention and treatment of diseases and injuries of the pulp and associated periradicular conditions.

(Rule 0460-1-.01, continued)

- (9) Licensee - Any person who has been lawfully issued a license to practice dentistry or dental hygiene in Tennessee.
- (10) Oral and Maxillofacial Surgery - That specialty branch of dentistry which includes the diagnosis, surgical and adjunctive treatment of diseases, injuries and defects involving both the functional and esthetic aspects of the hard and soft tissues of the oral and maxillofacial regions.
- (11) Oral Pathology - That specialty branch of dentistry which deals with the nature of the diseases affecting the oral and adjacent regions, through study of its causes, its processes and its effects, together with the associated alternations of oral structure and function. The practice of oral pathology shall include development and application of this knowledge through the use of clinical, microscopic, radiographic, biochemical or other such laboratory examinations or procedures as may be required to establish a diagnosis and/or gain other information necessary to maintain the health of the patient, or to correct the result of structural or functional changes produced by alternations from the normal.
- (12) Orthodontics and Dentofacial Orthopedics - That specialty branch of dentistry concerned with the supervision, guidance, and correction of the growing, or mature dentofacial structures, including those conditions that require movement of teeth or correction of malrelationships and malformations of their related structures and the adjustment of relationships between and among teeth and facial bones by the application of forces and/or the stimulation and redirection of functional forces within the craniofacial complex. Major responsibilities of orthodontic and dentofacial orthopedic practice include the diagnosis, prevention, interception and treatment of all forms of malocclusions of the teeth and associated alterations in their surrounding structures; the design, application, and control of functional and corrective appliances, and the guidance of the dentitions and its supporting structures to attain and maintain optimal occlusal relations in physiologic and esthetic harmony among facial and cranial structures.
- (13) Pediatric Dentistry (Pedodontics) - That specialty branch of dentistry associated with the practice and teaching of comprehensive preventive and therapeutic oral health care of children from birth through adolescence. It shall be construed to include care for special patients beyond the age of adolescence who demonstrate mental, physical and/or emotional problems.
- (14) Periodontics - That specialty branch of dentistry which deals with the diagnosis and treatment of disease of the supporting and surrounding tissue of the teeth. The maintenance of the health of these structures and tissues, achieved through periodontal treatment procedures, is also considered to be a responsibility of a periodontist.
- (15) Practical Dental Assistants - Auxiliary personnel who are not registered and who are receiving practical chairside dental assisting training in a dental office under the direct supervision of a licensed and registered dentist.
- (16) Prosthodontics - That specialty branch of dentistry pertaining to the restoration and maintenance of oral function, comfort, appearance and health of the patient by the restoration of the natural teeth and/or the replacement of missing teeth and contiguous oral maxillofacial tissues with artificial substitutes. The following constitute branches of Prosthodontics.
 - (a) Removable Prosthodontics is that branch of prosthodontics concerned with the replacement of teeth and contiguous structures for edentulous or partially edentulous patients by artificial substitutes that are removable from the mouth.
 - (b) Fixed Prosthodontics is that branch of prosthodontics concerned with the replacement and/or restoration of teeth by artificial substitutes that are not removable from the mouth.

(Rule 0460-1-.01, continued)

- (c) Maxillofacial Prosthetics is that branch of prosthodontics concerned with the restoration and/or replacement of stomatognathic and associated facial structures by artificial substitutes that may or may not be removable.
- (17) Registered Dental Assistants - Auxiliary personnel who have received a registration from the Board to practice as dental assistants.
- (18) Registrant - Any person who has been lawfully issued a registration from the Board to practice as dental assistants.
- (19) S.R.T.A. - The Southern Regional Testing Agency or its successor organization.
- (20) Specialist - A licensee who has satisfactorily completed the requirements as set forth in the Dental Practice Act and these rules to practice one of the specialties recognized by the Board.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-5-101, 63-5-105, 63-5-108, 63-5-111 through 63-5-115, and 63-5-117.
Administrative History: Original rule filed June 7, 1974. Repeal and new rule filed August 26, 1980; effective December 1, 1980. Amendment filed September 13, 1985; effective October 13, 1985. Amendment filed September 24, 1987; effective November 8, 1987. Amendment filed April 30, 1991; effective June 14, 1991. Repeal and new rule filed December 11, 1991; effective January 25, 1992. Amendment filed February 12, 1996; effective April 27, 1996. Amendment filed December 7, 1998; effective February 20, 1999. Amendment filed February 9, 2000; effective April 24, 2000. Amendment filed August 21, 2002; effective November 4, 2002. Amendment filed February 18, 2003; effective May 4, 2003.

0460-1-.02 FEES. The fees authorized by the Tennessee Dental Practice Act (T.C.A. §§ 63-5-101, et seq.) and other applicable statutes are established and assessed by the Board as non-refundable fees, as follows:

- (1) Dentists
 - (a) Licensure Application Fee - Payable each time an application for licensure is filed. This fee also applies to educational and dual degree licensure applications. \$150.00
 - (b) Educational Licensure Fee - Payable each time an application for an educational license is filed. This fee is to be paid in addition to the licensure application fee. \$100.00
 - (c) Specialty Certification Application Fee - Payable each time an application for a specialty certification is filed. \$100.00
 - (d) Specialty Certification Examination Fee - A non-refundable fee to be paid each time a specialty exam is taken. \$100.00
 - (e) Student Clinical Instructors Exemption Fee - Payable each time and for each individual named in the Application for Exemption submitted pursuant to Rule 0460-2-.04 (5). \$ 10.00
 - (f) Permit Fees - (limited conscious sedation, comprehensive conscious sedation, deep sedation/general anesthesia) Payable each time an application for a new permit or a biannual renewal of a permit is filed.
 - 1. Initial Permit Fee \$300.00

(Rule 0460-1-.02, continued)

2.	Biennial Permit Renewal Fee	\$100.00
(g)	Licensure Renewal Fee - Payable biennially by all licensees, including educational and dual degree licensees, and excluding Inactive Volunteer licensees.	\$200.00
(h)	State Regulatory Fee - Payable upon application for licensure and biennially thereafter by all licensees.	\$ 10.00
(i)	Reinstatement Fee - Payable when a licensee fails to renew licensure timely and which is paid in addition to all current and past due licensure renewal fees.	\$500.00
(j)	Duplicate License Fee - Payable when a licensee requests a replacement for a lost or destroyed "artistically designed" wall license or renewal certificate.	\$ 20.00
(k)	Inactive Volunteer Renewal Fee - This fee is paid biennially by Inactive Volunteer licensees.	\$ 30.00
(2)	Dental Hygienist	
(a)	Licensure Application Fee - Payable each time an application for licensure is filed. This fee also applies to criteria approval and educational licensure applications.	\$ 90.00
(b)	Criteria Licensure Fee - Payable each time an application for criteria approval licensure (reciprocity) is filed. This fee is to be paid in addition to the licensure application fee.	\$ 50.00
(c)	Educational Licensure Fee - Payable each time an application for an educational license is filed. This fee is to be paid in addition to the licensure application fee.	\$ 50.00
(d)	Student Clinical Instructor Exemption Fee - Payable each time and for each individual named in the Application for Exemption submitted pursuant to Rule 0460-3-.04(5).	\$ 10.00
(e)	Licensure Renewal Fee - Payable biennially by all licensees, including criteria approved and educational licensees.	\$145.00
(f)	State Regulatory Fee - Payable upon application for licensure and biennially thereafter by all licensees.	\$ 10.00
(g)	Reinstatement Fee - Payable when a licensee fails to renew licensure timely and which is paid in addition to all current and past due licensure renewal fees.	\$200.00
(h)	Duplicate License Fee - Payable when a licensee requests a replacement for a lost or destroyed "artistically designed" wall license or renewal certificate.	\$ 20.00
(3)	Dental Assistants	

(Rule 0460-1-.02, continued)

- (a) Registration Application Fee - Payable each time an application for a registration to practice as a dental assistant is filed. \$ 25.00
 - (b) Examination Processing Fee - Payable each time an applicant for registration applies to take or retake the registration examination. It is collected by the Board's office when permission is sought to take or retake the examination. (Additional fees may be required by the examining agency.) \$ 10.00
 - (c) Registration Renewal Fee - Payable biennially by all registrants. \$ 105.00
 - (d) State Regulatory Fee - Payable upon application for registration and biennially thereafter by all registrants \$ 10.00
 - (e) Reinstatement Fee - Payable when a registration is not timely renewed and which is paid in addition to all current and past due registration renewal fees. \$100.00
 - (f) Duplicate Registration Fee - Payable when a registrant requests a replacement for a lost or destroyed "artistically designed" wall registration or renewal certificate. \$ 20.00
 - (g) Coronal Polishing Examination Fee - Payable each time the registrant applies to sit for the written and/or clinical examination. It is collected by the Board's office. \$ 50.00
- (4) Fees may be paid in the following manner:
- (a) All fees paid by money order, certified, personal, or corporate check must be submitted to the Board's Administrative Office and made payable to the Tennessee Board of Dentistry.
 - (b) Fees may be paid by Division-approved credit cards or other Division-approved electronic methods.

Authority: T.C.A. §§4-3-1011, 4-5-202, 4-5-204, 63-1-103, 63-1-106, 63-1-107, 63-1-108, 63-5-105, 63-5-107, 63-5-105(7), 63-5-108, 63-5-110 through 63-5-114, 63-5-117, 63-5-118, and 63-5-132. **Administrative History:** Original rule certified June 7, 1974. Repeal and new rule filed August 26, 1980; effective December 1, 1980. Amendment filed October 13, 1983; effective November 14, 1983. Amendment filed September 24, 1987; effective November 8, 1987. Amendment filed June 8, 1989; effective July 23, 1989. Amendment filed November 30, 1989; effective January 14, 1990. Repeal and new rule filed December 11, 1991; effective January 25, 1992. Amendment filed December 5, 1994; effective February 18, 1995. Amendment filed March 20, 1996; effective June 3, 1996. Amendment filed September 26, 1996; effective December 10, 1996. Amendment filed February 9, 2000; effective April 24, 2000. Repeal and new rule filed April 10, 2002; effective June 24, 2002. Amendment filed August 21, 2002; effective November 4, 2002. Amendment filed March 17, 2003; effective July 29, 2003. Amendment filed June 13, 2003; effective August 27, 2003.

0460-1-.03 BOARD OFFICERS, CONSULTANTS, RECORDS AND MEETINGS.

- (1) The Board shall annually elect from its members the following officers:
 - (a) President - who shall preside at all Board meetings.
 - (b) Vice President - who shall preside at Board meetings in the absence of the President.

(Rule 0460-1-.03, continued)

- (c) Secretary-Treasurer - who along with the Board Administrator shall be responsible for correspondence from the Board.
- (2) Minutes of the Board meetings and all records, documents, applications, and correspondence will be maintained in the Board Administrative Office.
- (3) All requests, applications, notices, complaints, other communications and correspondence shall be directed to the Board Administrative Office. Any requests or inquiries requiring a Board decision or official Board action except documents relating to disciplinary actions, declaratory orders or hearing requests must be received fourteen (14) days prior to a scheduled Board meeting and will be retained in the Administrative Office and presented to the Board at the Board meeting. Such documents not timely received shall be set over to the next Board meeting.
- (4) The Board authorizes its designee, who shall be a Board designated licensed dentist employed by the Division, to act as the Board consultant and who is vested with the authority of the Board to do the following acts:
 - (a) Review and make determinations on licensure, registration, certification, permits, exemption, renewal, and reactivation of licensure or registration applications subject to the rules governing those respective applications.
 - (b) Serve as Consultant to the Division to decide the following:
 - 1. Whether and what type disciplinary actions should be instituted upon complaints received or investigations conducted by the Division.
 - 2. Whether and under what terms a complaint, case or disciplinary action might be settled. Any matter proposed for settlement must be subsequently ratified by the full Board before it will become effective.
 - 3. Make determinations, subject to subsequent ratification by the full Board, on the following:
 - (i) Petitions for stay of Board Orders pursuant to Rule 1360-4-1-.18.
 - (ii) Applications by out of state practitioners for permission to consult or operate in Tennessee pursuant to T.C.A. §63-5-109(4).
 - (iii) Approve or reject special projects pursuant to T.C.A. §63-5-109(5) and T.C.A. §63-5-109(12).
 - (iv) Approve or reject agencies employing dental interns, externs or graduates of dental and dental hygiene schools pursuant to T.C.A. §63-5-109(10).
 - (v) Approve or reject research or development projects pursuant to T.C.A. §63-5-109(10).
 - (vi) Approve or reject protocols for delivery of services in health care facilities by dental hygienists pursuant to T.C.A. §63-5-115(d).
 - (vii) Any other matter authorized by a majority vote of the Board.

(Rule 0460-1-.03, continued)

- (5) The salary of the Secretary of the Board shall be set at \$000.00 so long as the consultant authorized by paragraph (4) of this rule is designated. In the event that the Secretary acts as the Board consultant, the salary of the secretary shall be five hundred dollars (\$500.00) each month.
- (6) Request for Certificates of Fitness (verifications) for licensees or registrants desiring to practice in another state must be made in writing to the Board Administrative Office.
- (7) Request for duplicate or replacement licenses or registrations must be made in writing on a form to be supplied by the Board and forwarded to the Board's Administrative Office with the fee required in Rule 0460-1-.02.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-1-106, 63-1-108, 63-1-118, 63-5-105, and 63-5-124. **Administrative History:** Original rule certified June 7, 1974. Repeal and new rule filed August 26, 1980; effective December 1, 1980. Amendment filed December 2, 1980; effective March 31, 1981. Amendment filed October 13, 1983; effective November 14, 1983. Amendment filed September 21, 1989; effective November 5, 1989. Amendment filed April 30, 1991; effective June 14, 1991. Repeal and new rule filed December 11, 1991; effective January 25, 1992. Amendment filed March 20, 1996; effective June 3, 1996. Amendment May 15, 1996; effective September 27, 1996. Amendment filed April 10, 2001; effective June 24, 2001. Amendment filed April 10, 2002; effective June 24, 2002.

0460-1-.04 APPLICATION REVIEW, APPROVAL, DENIAL, INTERVIEWS. Review and decisions on applications cross referenced in Chapters 0460-2, 0460-3 and 0460-4, to this rule shall be governed by the following:

- (1) Completed applications received in the Board Administrative Office shall be submitted to a member of the Board or the Board consultant for review.
 - (a) An initial determination as to issuance or denial of the application shall be made after the application file is complete. Each member of the Board and the Board consultant is vested with the authority to make these initial determinations.
 - (b) Applicants, who by virtue of any criteria for licensure in the areas of mental, physical, moral or educational capabilities as contained in the application and review process which indicates derogatory information or a potential risk to the public health, safety and welfare, may be required to present themselves to the Board for an interview before final licensure may be granted. If sufficient cause exists, an applicant may be required to submit to a mental and/or physical examination.
- (2) The specific authorization applied for may be issued pursuant to the initial determination made by the Board member or consultant reviewing the application. However, such determination shall not become fully effective until such time as the full Board ratifies it.
- (3) If an application is incomplete when received by the Board Administrative Office or the reviewing Board member determines additional information is required from an applicant before an initial determination can be made, the Board Administrative Office shall notify the applicant of the information required. The applicant shall cause the requested information to be received by the Board Administrative Office on or before the sixtieth (60th) day after receipt of the notification.
 - (a) Such notifications shall be sent certified mail return receipt requested from the Board Administrative Office.
 - (b) If the requested information is not timely received, the application file shall be closed and the applicant notified. No further Board action will take place until a new application is received pursuant to the rules governing the applicable process, including another payment of all fees.

(Rule 0460-1-.04, continued)

- (4) If a completed application is initially denied by the reviewing Board member or consultant, the applicant shall be informed of that initial decision and that final determination shall be made by the full Board at its next meeting. If the full Board ratifies the initial denial, the action shall become final and the following shall occur:
 - (a) A notification of the denial shall be sent by the Board Administrative Office by certified mail return receipt requested which shall contain all the specific statutory or rule authorities for the denial.
 - (b) The notification, when appropriate, shall also contain a statement of the applicant's right to request a contested case hearing under the Tennessee Administrative Procedures Act (T.C.A. §4-5-101 et seq.) to contest the denial and the procedure necessary to accomplish that action.
 1. An applicant has a right to a contested case hearing only if the licensure denial was based on subjective or discretionary criteria.
 2. An applicant may be granted a contested case hearing if licensure denial is based on an objective, clearly defined criteria only if after review and attempted resolution by the Board's Administrative staff, the licensure application cannot be approved and the reasons for continued denial present a genuine issue of fact and/or law which is appropriate for appeal.
- (5) The initial determination procedures of this rule will not apply if the full Board reviews and makes final determination on any application during its meetings.
- (6) Any applicant who has successfully complied with all requirements of the rules governing the specific authorization applied for shall be entitled to its issuance with the following exceptions:
 - (a) Applicants who by virtue of any criteria in the area of mental, physical, moral or educational capabilities, as contained in the application and review process which indicates a potential risk to the public health, safety and welfare may, pursuant to T.C.A. §63-5-111(a)(1), be required to present themselves to the Board or selected member(s) of the Board for oral examination before final approval may be granted. If sufficient cause, as determined by the full Board, exists an applicant may be required, pursuant to T.C.A. §63-5-124(b), to submit to a mental and/or physical examination.
 - (b) The examinations which may be required by paragraph (6)(a) of this rule are considered part of the examinations as required prior to issuance of the authorization applied for pursuant to T.C.A. §63-5-111(a)(1).
 - (c) The issuance of the authorization applied for may be withheld or restricted for violation of the provisions of T.C.A. §63-5-124(a) and any rules promulgated pursuant thereto or failure to fully comply with all application requirements.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-5-105, 63-5-111, and 63-5-124. **Administrative History:** Original rule certified June 7, 1974. Repeal and new rule filed August 26, 1980; effective December 1, 1980. Amendment filed October 13, 1983; effective November 14, 1983. Repeal filed September 24, 1987; effective November 8, 1987. Repeal and new rule December 11, 1991; effective January 25, 1992. Amendment filed December 5, 1994; effective February 18, 1995. Amendment filed March 20, 1996; effective June 3, 1996. Amendment filed May 15, 1996; effective September 27, 1996. Amendment filed April 10, 2001; effective June 24, 2001.

0460-1-.05 CONTINUING EDUCATION AND C.P.R.

- (1) Continuing Education - Hours Required

(Rule 0460-1-.05, continued)

- (a) Each licensed dentist and dental hygienist must attend and complete fifteen (15) hours of continuing education each calendar year (January 1-December 31) in courses approved by the Board. A minimum of one (1) of the required fifteen (15) annual hours must be obtained in the area of chemical dependency education.
 - (b) Each registered dental assistant must attend and complete continuing education each calendar year (January 1-December 31) in courses approved by the Board.
 - 1. Twelve (12) hours are required in courses concerning procedures which are delegable or assignable to registered dental assistants, pursuant to Rule 0460-4-.08.
 - 2. One (1) hour of the twelve (12) hour requirement is required in a course concerning chemical dependency education.
 - 3. The hours required in part (1) (b) 1. may pertain to coronal polishing if the registered dental assistant is certified to perform coronal polishing, pursuant to Rule 0460-4-.04.
 - 4. The hours required in part (1) (b) 1. may pertain to monitoring nitrous oxide if the registered dental assistant is certified to monitor nitrous oxide, pursuant to Rule 0460-4-.05.
 - 5. The hours required in part (1) (b) 1. may pertain to application of sealants if the registered dental assistant is certified to apply sealants, pursuant to Rule 0460-4-.09.
 - 6. The hours required in part (1) (b) 1. may pertain to any dental procedure that Tennessee Code Annotated, Title 63, Chapter 5 or Rule 0460-4 specifically authorizes a registered dental assistant to perform and if the registered dental assistant is certified to perform such procedures.
 - (c) The Board approves courses for only the number of hours contained in the course. The approved hours of any individual course will not be counted more than once in a calendar year toward the required hourly total regardless of the number of times the course is attended or completed by any individual licensee.
 - (d) Each practitioner is responsible to attend only courses approved by the Board under Rule 0460-1-.05(3)(d) if credit for continuing education is desired unless prior approval under Rules 0460-1-.05(3)(b) and (e) has been obtained.
 - (e) Notwithstanding the provisions of subparagraph (3) (d), all continuing education courses intended to meet the requirements of Rules 0460-2-.07 (6) (a) 1. (ii), 0460-2-.07 (6) (a) 2. (ii), and 0460-2-.07 (8) (b) shall have prior approval by an Anesthesia Consultant as provided in Rule 0460-2-.07 (11).
- (2) Continuing Education. Proof of Compliance
- (a) The due date for attendance and completion of the required continuing education hours is December 31 of each year. A grace period of sixty (60) days will be allowed for submission of the proof required by subsection (b) but the hours must have been obtained in the preceding calendar year.
 - (b) Each dentist, dental hygienist, and registered dental assistant must, on their biennial renewal application, check a box and/or enter signature which indicates attendance and completion of

(Rule 0460-1-.05, continued)

the required continuing education hours and that such hours were obtained during the calendar years of report.

- (c) Each dentist, dental hygienist, and registered dental assistant must retain independent documentation of attendance and completion of all continuing education courses. This documentation must be retained for a period of three (3) years from the end of the calendar year in which the course is completed. This documentation must be produced for inspection and verification, if requested in writing by the Board during its verification process.
 - (d) Further, it is the responsibility of the practitioner to obtain documentation in the form of a certificate indicating the name of the practitioner attending such course, title of the course taken, date of the course, number of hours obtained for attending the course, and verification of the approved organization sponsoring the course.
 - (e) Any practitioner signing a biennial renewal application indicating completion of the required continuing education which in any way is not true will be subject to disciplinary action pursuant to T.C.A. §§ 63-5-124 (a) (1), (2), (3), (7) and (18).
- (3) Continuing Education - Course Approval
- (a) Courses to be offered for credit toward the required continuing education hours must, unless otherwise provided, receive prior approval from the Board.
 - (b) Prior approval of a course may be obtained by submitting the following information to the Board Administrative Office at least thirty (30) days prior to the scheduled date of the course.
 - 1. a course description or outline.
 - 2. names of all lecturers.
 - 3. brief resume of all lecturers.
 - 4. number of hours of educational credit requested.
 - 5. date of course.
 - 6. copies of materials to be utilized in the course.
 - 7. how verification of attendance is to be documented.
 - (c) Continuing Education courses may be presented in any of the following formats:
 - 1. Lecture.
 - 2. Audio or audiovisual - with successful completion of a written post experience examination to evaluate material retention if correspondence course.
 - 3. Correspondence - with successful completion of a written post experience examination to evaluate material retention.
 - 4. Any combination of the above.
 - (d) The following courses need not receive prior approval and shall constitute Board approved continuing education courses:

(Rule 0460-1-.05, continued)

1. Courses sponsored or approved by any of the following organizations:
 - (i) American Dental Association or its Constituent or Component Societies.
 - (ii) Academy of General Dentistry or a State Affiliate.
 - (iii) American Dental Hygienists' Association or its Constituent or Component Societies.
 - (iv) Any National, Regional or State Academy or Association of any of the recognized specialty branches of dentistry listed in T.C.A. §63-5-112.
 - (v) National Dental Association or its Constituent or Component Societies.
 - (vi) National Dental Hygiene Association.
 - (vii) Capital City Dental Society.
 - (viii) American Dental Assistants' Association or its Constituent or Component Societies.
 - (ix) Tennessee Dental Hygienists Academy of Advanced Study.
 2. Educational courses sponsored by an accredited school of dentistry, dental hygiene, or dental assisting. If such course is taken for or assigned quarter or semester credit hours, three (3) semester hours or equivalent quarter hours shall be equivalent to fifteen (15) continuing education hours. No credits will be counted for courses failed.
 3. Five (5) hours of continuing education credit in any one (1) calendar year shall be given for general attendance at state, regional or national dental meetings. These hours are in addition to any continuing education courses attended at any of those meetings.
 4. Four (4) hours of continuing education credit shall be given each time a licensee participates as an examiner for S.R.T.A.
- (e) Individual Board members and the Board consultant are vested with the authority to approve continuing education courses submitted in compliance with this rule. All such approvals must be presented to the Board for ratification..
- (4) Cardio Pulmonary Resuscitation (CPR)
- (a) Each dentist, dental hygienist, and dental assistant must annually check a box and/or enter signature, on a Board provided form which indicates current training in basic CPR.
 - (b) The hours necessary to obtain or maintain C.P.R. shall not be counted as continuing education hours.
 - (c) Each dentist, dental hygienist and registered dental assistant must retain independent documentation of CPR training for a period of three (3) years from the end of the calendar year in which the training is received. Such proof must be produced for inspection and verification, if requested in writing by the Board during its verification process.
 - (d) The following organizations are approved by the Board for CPR training:

(Rule 0460-1-.05, continued)

1. The American Red Cross
 2. The American Heart Association
 3. Programs offered in hospital settings
 4. Any organization which receives approval of specially designed CPR courses from the Board after its review.
- (5) Waiver of Continuing Education And/Or CPR Training
- (a) The Board may grant a waiver of the need to attend and complete the required hours of continuing education and/or the required CPR training if it can be shown to the Board that the failure to comply was not attributable to or was beyond the physical capabilities of the person seeking the waiver.
 - (b) Waivers will be considered only on an individual basis and may be requested by submitting the following items to the Board Administrative Office:
 1. A written request for a waiver which specifies what requirement is sought to be waived and a written and signed explanation of the reasons for the request.
 2. Any documentation which supports the reason for the waiver requested or which is subsequently requested by the Board.
 - (c) A waiver approved by the Board is effective for only the calendar year for which the waiver is sought unless otherwise specified in writing by the Board.
 - (d) A dentist may not perform dental procedures if C.P.R. training is waived unless another dentist, a dental hygienist or dental assistant currently trained in C.P.R. is present within the confines of the dental office.
 - (e) The Board Consultant is authorized to grant or deny requests for waivers subject to subsequent Board ratification.
- (6) Continuing Education for Reactivation of Retired License - The continuing education hours obtained as a prerequisite for licensure reactivation may not be counted toward the continuing education hours required to be obtained before the end of the calendar year of reactivation.
- (a) Any dentist or dental hygienist who applies for reactivation of a license must comply with the following:
 1. If the license has been retired for less than two (2) years, the licensee must submit along with the reactivation request and application, proof or check a box/or enter signature on a Board form which indicates the attendance and completion of the number of hours of approved dental-related continuing education required by rule 0460-1-.05(1)(a), all of which must have been earned in the twelve (12) months immediately preceding application for reactivation.
 2. If the license has been retired for a period of two (2) years or more, but less than five (5) years, the licensee must submit, along with the reactivation request and application, proof or check a box/or enter signature on a Board form which indicates the attendance and completion of twenty four (24) hours of Board- approved dental-related continuing

(Rule 0460-1-.05, continued)

education. The continuing education must include at least one (1) course which focuses on and serves as a clinical (in the mouth) refresher and must have been earned in the twelve (12) months immediately preceding application for reactivation. In addition, and at the sole discretion of the Board or its consultant, when information indicates a cause for concern about continued competency, the licensee may be required to contact one of the approved schools of dentistry/hygiene for an evaluation of current competency before reinstatement will be considered.

3. All applicants who have been retired for a period of five (5) years or more must submit, along with the reactivation request and application, proof or check a box/or enter signature on a Board form which indicates the attendance and completion of twenty four (24) hours of Board approved dental-related continuing education. The continuing education must include at least one (1) course which focuses on and serves as a clinical (in the mouth) refresher and must have been earned in the twelve (12) months immediately preceding application for reactivation. In addition, the licensees shall be required to present themselves to one of the approved schools of dentistry/hygiene for an evaluation of current competency before reinstatement will be considered. Compliance with any educational recommendations of the evaluating school is required before reinstatement will be considered.
- (b) Any registered dental assistant who applies for reactivation of a registration must comply with the following:
1. If the registrant has been retired for less than two (2) years, the registrant must submit along with the reactivation request and application, proof or check a box/or enter signature on a Board form which indicates the attendance and completion of the number of hours of approved dental-related continuing education required by rule 0460-1-.05 (1) (b), all of which must have been earned in the twelve (12) months immediately preceding application for reactivation.
 2. If the registrant has been retired for a period of two (2) years or more, but less than five (5) years, the registrant must submit, along with the reactivation request and application, proof or check a box/or enter signature on a Board form which indicates the attendance and completion of twelve (12) hours of continuing education as provided in subparagraph (1) (b) and must have been earned in the twelve (12) months immediately preceding application for reactivation.
 3. All applicants who have been retired for a period of five (5) years or more must submit, along with the reactivation request and application, proof or check a box/or enter signature on a Board form which indicates the attendance and completion of twenty-four (24) hours of continuing education as provided in subparagraph (1) (b) and must have been earned in the twelve (12) months immediately preceding application for reactivation.
- (c) The dentist, dental hygienist, or registered dental assistant who applies for reactivation of a license must also submit proof or check a box and/or enter signature on a Board form which indicates current training in CPR issued by a Board approved training organization. The hours required to obtain or maintain CPR training shall not constitute continuing education hours.
- (d) The Board, upon receipt of a written request and explanation, may waive or condition any or all of the continuing education or CPR requirements for reactivation of a retired license in emergency situations.

(Rule 0460-1-.05, continued)

- (e) The Board Consultant is authorized to grant or deny requests for waivers subject to subsequent Board ratification.
- (7) Violations
 - (a) Any dentist, dental hygienist, or dental assistant who falsely attests to attendance and completion of the required hours of continuing education and/or the CPR training requirement may be subject to disciplinary action pursuant to T.C.A. §63-5-124(A)(1), (3), (7) and (18).
 - (b) Any dentist, dental hygienist, or dental assistant who fails to obtain the required continuing education hours and/or CPR training may be subject to disciplinary action pursuant to T.C.A. §63-5-124(a)(1) and (18).
 - (c) Education hours obtained as a result of compliance with the terms of an informal settlement or Board Orders in any disciplinary action shall not be counted toward the continuing education hours required to be obtained in any calendar year.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-5-105, 63-5-107, 63-5-107(c), 63-5-108, 63-5-114, 63-5-115, and 63-5-124. **Administrative History:** Original rule certified June 7, 1974. Repeal filed August 26, 1980; effective December 1, 1980. Repeal and new rule filed December 11, 1991; effective January 25, 1992. Amendment filed June 29, 1994; effective September 12, 1994. Amendment filed December 5, 1994; effective February 18, 1995. Amendment filed March 20, 1996; effective June 3, 1996. Amendment to rule filed October 9, 1997; effective December 23, 1997. Amendment filed February 9, 2000; effective April 24, 2000. Amendment filed April 10, 2002; effective June 24, 2002. Amendment filed June 13, 2003; effective August 27, 2003. Amendment filed June 18, 2003; effective September 1, 2003.

0460-1-.06 DISCIPLINARY ACTIONS, CIVIL PENALTIES, PROCEDURES, DECLARATORY ORDERS, ASSESSMENT OF COSTS, AND SUBPOENAS.

- (1) Upon a finding by the Board that a licensee or registrant has violated any provision of the Tennessee Dental Practice (T.C.A. §63-5-101 et seq.) or the rules promulgated pursuant thereto, the Board may impose any of the following actions separately or in any combination which is deemed appropriate to the offense:
 - (a) Private Censure - This is a written action issued for minor or near infractions. It is informal and advisory in nature and does not constitute a formal disciplinary action.
 - (b) Public Censure or Reprimand - This is a written action issued for one time and less severe violations. It is a formal disciplinary action.
 - (c) Probation - This is a formal disciplinary action which places a licensee or registrant on close scrutiny for a fixed period of time. This action may be combined with conditions which must be met before probation will be lifted and/or which restrict activities during the probationary period.
 - (d) Suspension - This is a formal disciplinary action which suspends a licensee's or registrant's right to practice for a fixed period of time. It contemplates the reentry into practice under the license or registration previously issued.
 - (e) Revocation for Cause. This is the most severe form of disciplinary action which removes an individual from the practice of the profession and terminates the registration or licensure previously issued. The Board, in its discretion, may allow reinstatement of a revoked registration or license upon conditions and after a period of time it deems appropriate. No petition for reinstatement and no new application for registration or licensure from a person

(Rule 0460-1-.06, continued)

whose license or registration was revoked shall be considered prior to the expiration of at least one year unless otherwise stated in the Board's revocation order.

- (f) Conditions - Any action deemed appropriate by the Board to be required of a disciplined licensee or registrant during any period of probation or suspension or as a prerequisite to the lifting of probation or suspension or the reinstatement of a revoked license or registration.
 - (g) Civil Penalty - A monetary disciplinary action assessed by the Board pursuant to paragraph (2) of this rule or pursuant to T.C.A. §63-5-124(a) or T.C.A. §§63-5-116(a) and 63-5-116(b).
 - (h) When the Board suspends a license or registration, the person may not practice dentistry, dental hygiene or as a dental assistant during the period of suspension and is also prohibited from doing the following:
 - 1. Direct chairside assistance to another dentist or dental hygienist in the dental treatment of any patient;
 - 2. Appear before dental patients in a laboratory coat, clinic smock or other garment which is customarily worn by practitioners when treating patients;
 - 3. Consultation with another practitioner concerning the treatment of the person's patients in the presence of, or within hearing of, any patient or patients; provided, however, that he or she may discuss with a subsequent treating practitioner, out of the presence or hearing of any patient, the patient's prior diagnosis or pre-existing treatment plan and such subsequent treating practitioner's proposed treatment plan. However, the fact or substance of such discussion shall not be communicated or conveyed to a patient or patients personally, or by another treating practitioner who presents it to the patient, as that person's judgment, such diagnosis, treatment plan or other professional determination;
 - 4. Personal acceptance of payment for dental services directly from a patient in the reception area of the office.
 - (i) Once ordered, probation, suspension, revocation, or any other condition of any type of disciplinary action or informal settlement may not be lifted unless and until the licensee petitions and appears before the Board after the period of initial probation, suspension, revocation, or other conditioning has run and all conditions placed on the probation, suspension, revocation, or settlement have been met and the Board is satisfied that a further probationary, suspension, revocation, or settlement period is not warranted.
- (2) Civil Penalties
- (a) Purpose

The purpose of this rule is to set out schedule designating the minimum and maximum civil penalties which may be assessed pursuant to T.C.A. §63-1-134. The Board may assess these civil penalties in lieu of, the civil penalties authorized by T.C.A. §63-5-124(a) and T.C.A. §63-5-116.
 - (b) Schedule of Civil Penalties
 - 1. A Type A Civil Penalty may be imposed whenever the Board finds a person who is required to be licensed, certified, permitted, or registered by the Board, guilty of a willful and knowing violation of the Dental Practice Act, or regulations promulgated pursuant

(Rule 0460-1-.06, continued)

thereto, to such an extent that there is, or is likely to be, an imminent, substantial threat to the health, safety and welfare of an individual patient or the public. For purposes of this section, willfully and knowingly practicing dentistry, as a dental hygienist or as a dental assistant without a permit, license, certification or registration from the Board is one of the violations of the Dental Practice Act for which a Type A Civil Penalty is assessable.

2. A Type B Civil Penalty may be imposed whenever the Board finds the person required to be licensed, certified, permitted, or registered by the Board is guilty of a violation of the Dental Practice Act or regulations promulgated pursuant thereto in such manner as to impact directly on the care of patients or the public.
3. A Type C Civil Penalty may be imposed whenever the Board finds the person required to be licensed, certified, permitted, or registered by the Board is guilty of a violation of the Dental Practice Act or regulations promulgated pursuant thereto, which are neither directly detrimental to the patients or public, nor directly impact their care, but have only an indirect relationship to patient care or the public.

(c) Amount of Civil Penalties.

1. Type A Civil Penalties shall be assessed in the amount of not less than \$500 and not more than \$1000.
2. Type B Civil Penalties may be assessed in the amount of not less than \$100 and not more than \$500.
3. Type C Civil Penalties may be assessed in the amount of not less than \$50 and not more than \$100.

(d) Procedures for Assessing Civil Penalties

1. The Division of Health Related Boards may initiate a civil penalty assessment by filing a Memorandum of Assessment of Civil Penalty. The Division shall state in the memorandum the facts and law upon which it relies in alleging a violation, the proposed amount of the civil penalty and the basis for such penalty. The Division may incorporate the Memorandum of Assessment of Civil Penalty with a Notice of Charges which may be issued attendant thereto.
2. Civil Penalties may also be initiated and assessed by the Board during consideration of any Notice of Charges. In addition, the Board may, upon good cause shown, assess a type and amount of civil penalty which was not recommended by the Division.
3. In assessing the civil penalties pursuant to these rules the Board may consider the following factors:
 - (i) Whether the amount imposed will be a substantial economic deterrent to the violator;
 - (ii) The circumstances leading to the violation;
 - (iii) The severity of the violation and the risk of harm to the public;
 - (iv) The economic benefits gained by the violator as a result of non-compliance; and
 - (v) The interest of the public.

(Rule 0460-1-.06, continued)

4. All proceedings for the assessment of civil penalties shall be governed by the contested case provision of Title 4, Chapter 5, T.C.A.
- (3) All contested case hearings before the Board shall be conducted pursuant to the Uniform Rules of Procedures for Contested Case Hearings Before State Administrative Agencies, Rules 1360-4-1-.01 through 1360-4-1-.20.
- (4) The Board adopts, as if fully set out herein, rule 1200-10-1-.11, of the Division of Health Related Boards and as it may from time to time be amended, as its rule governing the declaratory order process. All declaratory order petitions involving statutes, rules or orders within the jurisdiction of the Board shall be addressed by the Board pursuant to that rule and not by the Division. Declaratory Order Petition forms can be obtained from the Board's Administrative office.
- (5) Assessment of Costs - The imposition of a requirement that any person against whom sanctions have been imposed as a result of a disciplinary action pay the actual and reasonable costs of the prosecution of the case. When the Board, in any final order, requires the "payment of costs", that requirement includes payment of the following:
 - (a) All costs attributed to and assessed against the Board by the Division's Bureau of Investigations in connection with the prosecution of the matter including all investigator time, travel and lodging incurred during the prosecution.
 - (b) All costs assessed against the Board by the Division for the use of the Division facilities and personnel for prosecution of the matter.
 - (c) All costs assessed against the Board for the appearance fees, transcripts, time, travel and lodging of administrative law judges and court reporters and witnesses required in the prosecution of the matter.
- (6) Subpoenas
 - (a) Purpose - Although this rule applies to persons and entities other than dentists, it is the Board's intent as to dentists that they be free to comprehensively treat and document treatment of their patients without fear that the treatment or its documentation will be unduly subjected to scrutiny outside the profession. Consequently, balancing that intent against the interest of the public and patients to be protected against substandard care and activities requires that persons seeking to subpoena such information and/or materials must comply with the substance and procedures of these rules.

It is the intent of the Board that the subpoena power outlined herein shall be strictly construed. Such power shall not be used by the Division or Board investigators to seek other incriminating evidence against dentists when the Division or Board does not have a complaint or basis to pursue such an investigation. Thus, unless the Division or its investigators have previously considered, discovered, or otherwise received a complaint from either the public or a governmental entity, no subpoena as contemplated herein shall issue.
 - (b) Definitions - As used in this chapter of rules the following words shall have the meanings ascribed to them:
 1. Probable Cause
 - (i) For Investigative Subpoenas - Shall mean that probable cause, as defined by case law at the time of request for subpoena issuance is made, exists that a violation of

(Rule 0460-1-.06, continued)

T.C.A. §§ 63-5-101, et seq., or rules promulgated pursuant thereto has occurred or is occurring and that it is more probable than not that the person(s), or item(s) to be subpoenaed possess or contain evidence which is more probable than not relevant to the conduct constituting the violation.

- (ii) The utilization of the probable cause evidentiary burden in proceedings pursuant to this rule shall not in any way, nor should it be construed in any way, to establish a more restrictive burden of proof than the existing preponderance of the evidence in any civil disciplinary action which may involve the person(s) or item(s) that are the subject of the subpoena.

- 2. Presiding Officer - For investigative subpoenas shall mean any elected officer of the Board.

(c) Procedures

1. Investigative Subpoenas

- (i) Investigative Subpoenas are available only for issuance to the authorized representatives of the Tennessee Department of Health, its investigators and its legal staff.

- (ii) An applicant for such a subpoena must either orally or in writing notify the Board's Unit Director of the intention to seek issuance of a subpoena. That notification must include the following:

- (I) The time frame in which issuance is required so the matter can be timely scheduled; and

- (II) A particular description of the material or documents sought, which must relate directly to an ongoing investigation or contested case, and shall, in the instance of documentary materials, be limited to the records of the patient or patients whose complaint, complaints, or records are being considered by the Division or Board.

- I. In no event shall such subpoena be broadly drafted to provide investigative access to dental records of other patients who are not referenced in a complaint received from an individual or governmental entity, or who have not otherwise sought relief, review, or Board consideration of a dentist's conduct, act, or omission.

- II. If the subpoena relates to the prescribing practices of a licensee, then it shall be directed solely to the records of the patient(s) who received the pharmaceutical agents and whom the Board of Pharmacy or issuing pharmacy(ies) has so identified as recipients; and

- (III) Whether the proceedings for the issuance are to be conducted by physical appearance or electronic means; and

- (IV) The name and address of the person for whom the subpoena is being sought or who has possession of the items being subpoenaed.

(Rule 0460-1-.06, continued)

- (iii) The Board's Unit Director shall cause to have the following done:
 - (I) In as timely a manner as possible, arrange for an elected officer of the Board to preside and determine if issuing the subpoena should be recommended to the full Board; and
 - (II) Establish a date, time and place for the proceedings to be conducted and notify the Presiding Officer, the applicant and the court reporter; and
 - (III) Maintain a complete record of the proceedings including an audio tape in such a manner as to:
 - I. Preserve a verbatim record of the proceeding; and
 - II. Prevent the person presiding over the proceedings from being allowed to participate in any manner in any disciplinary action of any kind, formal or informal, which may result which involves either the person or the documents or records for which the subpoena was issued.
- (iv) The Proceedings
 - (I) The applicant shall do the following:
 - I. Provide for the attendance of all persons whose testimony is to be relied upon to establish probable cause; and
 - II. Produce and make part of the record copies of all documents to be utilized to establish probable cause; and
 - III. Obtain, complete and provide to the Presiding Officer a subpoena which specifies the following:
 - A. The name and address of the person for whom the subpoena is being sought or who has possession of the items being subpoenaed; and
 - B. The location of the materials, documents or reports for which production pursuant to the subpoena is sought, if that location is known; and
 - C. A brief, particular description of any materials, documents or items to be produced pursuant to the subpoena; and
 - D. The date, time and place for compliance with the subpoena.
 - IV. Provide the Presiding Officer testimony and/or documentary evidence which in good faith the applicant believes is sufficient to establish that probable cause exists for issuance of the subpoena as well as sufficient proof that all other reasonably available alternative means of securing the materials, documents or items have been unsuccessful.
 - (II) The Presiding Officer shall do the following:

(Rule 0460-1-.06, continued)

- I. Have been selected only after assuring the Board's Unit Director that he or she has no prior knowledge of or any direct or indirect interest in or relationship with the person(s) being subpoenaed and/or the licensee who is the subject of the investigation; and
- II. Commence the proceedings and swear all necessary witnesses; and
- III. Hear and maintain the confidentiality of the evidence, if any, presented at the proceedings and present to the full Board only that evidence necessary for an informed decision; and
- IV. Control the manner and extent of inquiry during the proceedings and be allowed to question any witness who testifies; and
- V. Determine, based solely on the evidence presented in the proceedings, whether probable cause exists and, if so, make such recommendation to the full Board; and
- VI. Not participate in any way in any other proceeding whether formal or informal which involves the matters, items or person(s) which are the subject of the subpoena. This does not preclude the presiding officer from presiding at further proceedings for consideration of issuance of subpoenas in the matter.

(III) The Board shall do the following:

- I. By a vote of two thirds (2/3) of the Board members, issue the subpoena for the person(s) or items specifically found to be relevant to the inquiry, or quash or modify an existing subpoena by a majority vote; and
- II. Sign the subpoena as ordered to be issued, quashed or modified.

2. Post-Notice of Charges Subpoenas - If the subpoena is sought for a contested case hearing pursuant to Title 4, Chapter 5 of the Tennessee Code Annotated, the procedure in part (c) 1. of this paragraph shall not apply and all such post-notice of charges subpoenas should be obtained from the office of the Administrative Procedures Division of the Office of the Secretary of State pursuant to the Uniform Administrative Procedures Act and rules promulgated pursuant thereto.

(d) Subpoena Forms

1. All subpoena shall be issued on forms approved by the Board.
2. The subpoena forms may be obtained by contacting the Board's Administrative Office.

- (e) Subpoena Service - Any method of service of subpoenas authorized by the Tennessee Rules of Civil Procedure or the rules of the Tennessee Department of State, Administrative Procedures Division may be utilized to serve subpoenas pursuant to this rule.

Authority: T.C.A. §§4-5-202, 4-5-204, 4-5-105, 4-5-223, 4-5-224, 4-5-225, 63-1-134, 63-5-105, 63-5-116, 63-5-116, and 63-5-124. **Administrative History:** Original rule filed December 11, 1991; effective January 25, 1992. Amendment filed February 12, 1996; effective April 27, 1996. Amendment filed May 15, 1996; effective September

(Rule 0460-1-.06, continued)

27, 1996. Amendment filed December 7, 1998; effective February 20, 1999. Amendment filed February 15, 2000; effective April 30, 2000. Amendment filed April 10, 2001; effective June 24, 2001. Amendment filed August 21, 2002; effective November 4, 2002.

0460-1-.07 WORKING INTERVIEWS.

- (1) A dentist shall not conduct employment interviews with dentists, dental hygienists or dental assistants that include any patient care unless the dentist visually inspects and verifies the dentist's, dental hygienist's or dental assistant's current and unrestricted authorization to practice their profession in Tennessee.
- (2) A licensee's failure to comply with the provisions of this rule shall constitute unprofessional conduct and subject the licensee to disciplinary action pursuant to Rule 0460-1-.06.
- (3) An applicant's failure to comply with the provisions of this rule shall constitute unprofessional conduct and subject the applicant to licensure denial pursuant to Rule 0460-1-.04.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-5-104, 63-5-105, 63-5-107, and 63-5-116. **Administrative History:** Original rule filed December 11, 1991; effective January 25, 1992. Amendment filed February 9, 2000; effective April 24, 2000. New rule filed April 10, 2001; effective June 24, 2001.

0460-1-.08 DENTAL PROFESSIONAL CORPORATIONS (D.P.C.).

- (1) Dental Professional Corporations (D.P.C.) - Except as provided in this rule, Dental Professional Corporations shall be governed by the provisions of Tennessee Code Annotated, Title 48, Chapter 101, Part 6.
- (2) Filings - A D.P.C. need not file its Charter or an Annual Statement of Qualifications with the Board.
- (3) Ownership of Stock - With the exception of the health care professional combinations specifically enumerated in Tennessee Code Annotated Section 48-101-610, only the following may form and own shares of stock in a D.P.C.:
 - (a) Dentists licensed pursuant to Tennessee Code Annotated Title 63, Chapter 5; and/or
 - (b) A general partnership in which all partners are dentists licensed pursuant to Tennessee Code Annotated Title 63, Chapter 5; and/or
 - (c) A D.P.C. in which all shareholders are dentists licensed pursuant to Tennessee Code Annotated Title 63, Chapter 5 to practice dentistry in Tennessee, or composed of entities which are directly or indirectly owned by such licensed dentists; and/or
 - (d) A Dental Professional Limited Liability Company (D.P.L.L.C.) in which all members are dentists licensed pursuant to Tennessee Code Annotated Title 63, Chapter 5 to practice dentistry in Tennessee or composed of entities which are directly or indirectly owned by such licensed dentists; and/or
 - (e) A foreign D.P.C. or D.P.L.L.C. in which all shareholders/members are dentists licensed pursuant to Tennessee Code Annotated Title 63, Chapter 5 to practice dentistry in Tennessee or composed of entities which are directly or indirectly owned by such licensed dentists.
- (4) Officers and Directors of Dental Professional Corporations -

(Rule 0460-1-.08, continued)

- (a) All, except the following officers, must be dentists licensed pursuant to Tennessee Code Annotated Title 63, Chapter 5:
 - 1. Secretary;
 - 2. Assistant Secretary;
 - 3. Treasurer; and
 - 4. Assistant Treasurer.
 - (b) With respect to members of the Board of Directors, only dentists licensed pursuant to Tennessee Code Annotated Title 63, Chapter 5 shall be directors of a D.P.C.
- (5) Practice Limitations
 - (a) A dentist shall not enter into an employment, compensation, or other contractual arrangement with a D.P.C. that may violate the code of ethics or which gives the D.P.C. authority over the dentist's diagnosis, treatment and/or referral decisions.
 - (b) Engaging in, or allowing another dentist incorporator, shareholder, officer, or director, while acting on behalf of the D.P.C., to engage in dental practice in any area of practice or specialty beyond that which is specifically set forth in the charter may be a violation of the code of ethics and/or either Tennessee Code Annotated, Section 63-5-124.
 - (c) Nothing in these rules shall be construed as prohibiting any health care professional licensed pursuant to Tennessee Code Annotated, Title 63 from being an employee of or a contractor to a D.P.C.
 - (d) Nothing in these rules shall be construed as prohibiting a D.P.C. from electing to incorporate for the purposes of rendering professional services within two (2) or more professions or for any lawful business authorized by the Tennessee Business Corporations Act, so long as those purposes do not interfere with the exercise of independent dental judgment by the dentist incorporators, directors, officers, shareholders, employees or contractors of the D.P.C. who are practicing dentistry as defined by Tennessee Code Annotated § 63-5-108.
 - (e) Nothing in these rules shall be construed as prohibiting a dentist from owning shares of stock in any type of professional corporation other than a D.P.C. so long as such ownership interests do not interfere with the exercise of independent dental judgment by the dentist while practicing dentistry as defined by Tennessee Code Annotated § 63-5-108.
- (6) Dissolution - The procedure that the Board shall follow to notify the attorney general that a D.P.C. has violated or is violating any provision of Title 48, Chapter 101 shall be as follows, but shall not terminate or interfere with the secretary of state's authority regarding dissolution pursuant to Tennessee Code Annotated Section 48-101-624.
 - (a) Service of a written notice of violation by the Board on the registered agent of the D.P.C. or the secretary of state if one of the events described in Tennessee Code Annotated Section 48-101-610 or a violation of the provisions of Tennessee Code Annotated, Title 48, Chapter 101, occurs.
 - (b) The notice of violation shall state with reasonable specificity the nature of the alleged violation(s).

(Rule 0460-1-.08, continued)

- (c) The notice of violation shall state that the D.P.C. must, within sixty (60) days after service of the notice of violation, correct each alleged violation or show to the Board's satisfaction that the alleged violation(s) did not occur.
 - (d) The notice of violation shall state that, if the Board finds that the D.P.C. is in violation, the attorney general will be notified and judicial dissolution proceedings may be instituted pursuant to the appropriate sections of Tennessee Code Annotated, Title 48.
 - (e) The notice of violation shall state that proceedings pursuant to this section shall not be conducted in accordance with the contested case provisions of the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5, but that the D.P.C., through its agent(s), shall appear before the Board at the time, date, and place as set by the Board and show cause why the Board should not notify the attorney general and reporter that the organization is in violation of the Act or these rules. The Board shall enter an order that states with reasonable particularity the facts describing each violation and the statutory or rule reference of each violation. These proceedings shall constitute the conduct of administrative rather than disciplinary business.
 - (f) If, after the proceeding, the Board finds that a D.P.C. did violate any provision of Title 48, Chapter 101 or these rules, and failed to correct said violation or demonstrate to the Board's satisfaction that the violation did not occur, the Board shall certify to the attorney general and reporter that it has met all requirements of Tennessee Code Annotated, Sections 48-101-624 (1) - (3).
- (7) Violation of this rule by any dentist individually or collectively while acting as a D.P.C. may subject the dentist(s) to disciplinary action pursuant to Tennessee Code Annotated, Section 63-5-124.

Authority: T.C.A. §§4-5-202, 4-5-204, 48-101-605, 48-101-608, 48-101-610, 48-101-618, 48-101-624, 48-101-628, 48-101-629, 48-101-630, 48-248-104, 48-248-202, 48-248-401, 48-248-404, 48-248-409, 48-248-501, 48-248-601, 48-248-602, 48-248-603, 63-5-105, 63-5-108, and 63-5-124. **Administrative History:** Original rule certified June 7, 1974. Repeal filed August 26, 1980; effective December 1, 1980. New rule filed September 4, 1998; effective November 18, 1998. Amendment filed June 13, 2003; effective August 27, 2003.

0460-1-.09 DENTAL PROFESSIONAL LIMITED LIABILITY COMPANIES (D.P.L.L.C.).

- (1) Dental Professional Limited Liability Companies (D.P.L.L.C.) - Except as provided in this rule Dental Professional Limited Liability Companies shall be governed by the provisions of Tennessee Code Annotated, Title 48, Chapter 248.
- (2) Filings - Articles filed with the Secretary of State shall be deemed to be filed with the Board and no Annual Statement of Qualifications need be filed with the Board.
- (3) Membership - With the exception of the health care professional combinations specifically enumerated in Tennessee Code Annotated, Section 48-248-401, only the following may be members of a foreign or domestic D.P.L.L.C. doing business in Tennessee:
 - (a) Dentists licensed pursuant to Tennessee Code Annotated Title 63, Chapter 5; and/or
 - (b) A general partnership in which all partners are dentists licensed pursuant to Tennessee Code Annotated Title 63, Chapter 5; and/or
 - (c) A Dental Professional Corporation (D.P.C.) in which all shareholders are dentists licensed pursuant to Tennessee Code Annotated Title 63, Chapter 5 to practice dentistry in Tennessee or composed of entities which are directly or indirectly owned by such licensed dentists; and/or

(Rule 0460-1-.09, continued)

- (d) A Dental Professional Limited Liability Company (D.P.L.L.C.) in which all members are dentists licensed pursuant to Tennessee Code Annotated Title 63, Chapter 5 to practice dentistry in Tennessee or composed of entities which are directly or indirectly owned by such licensed dentists; and/or
 - (e) A foreign D.P.C. or D.P.L.L.C. in which all shareholders/members are dentists licensed pursuant to Tennessee Code Annotated Title 63, Chapter 5 to practice dentistry in Tennessee or composed of entities which are directly or indirectly owned by such licensed dentist.
- (4) Managers or Governors of a D.P.L.L.C.
 - (a) All, except the following managers, must be dentists licensed pursuant to Tennessee Code Annotated Title 63, Chapter 5:
 - 1. Secretary
 - 2. Treasurer
 - (b) Only dentists licensed pursuant to Tennessee Code Annotated Title 63, Chapter 5 shall serve on the Board of Governors of a D.P.L.L.C..
- (5) Practice Limitations
 - (a) A dentist shall not enter into an employment, compensation, or other contractual arrangement with a D.P.L.L.C. that may violate the code of ethics or which gives the D.P.L.L.C. authority over the dentist's diagnosis, treatment and/or referral decisions.
 - (b) Engaging in, or allowing another dentist member, officer, manager, or governor, while acting on behalf of the D.P.L.L.C., to engage in dental practice in any area of practice or specialty beyond that which is specifically set forth in the articles of organization may be a violation of the code of ethics and/or either Tennessee Code Annotated, Section 63-5-124.
 - (c) Nothing in these rules shall be construed as prohibiting any health care professional licensed pursuant to Tennessee Code Annotated, Title 63 from being an employee of or a contractor to a D.P.L.L.C.
 - (d) Nothing in these rules shall be construed as prohibiting a D.P.L.L.C. from electing to form for the purposes of rendering professional services within two (2) or more professions or for any lawful business authorized by the Tennessee Business Corporations Act, so long as those purposes do not interfere with the exercise of independent dental judgment by the dentist members, governors, managers, officers, employees or contractors of the D.P.L.L.C. who are practicing dentistry as defined by Tennessee Code Annotated § 63-5-108.
 - (e) Nothing in these rules shall be construed as prohibiting a dentist from being a member of any type of professional limited liability company other than a D.P.L.L.C., so long as such membership interests do not interfere with the exercise of independent dental judgment by the dentist while practicing dentistry as defined by Tennessee Code Annotated Section 63-5-108.
 - (f) All D.P.L.L.C.s formed in Tennessee, pursuant to Tennessee Code Annotated Section 48-248-104, to provide services only in states other than Tennessee shall annually file with the Board a notarized statement that they are not providing services in Tennessee.
- (6) Dissolution - The procedure that the Board shall follow to notify the attorney general that a D.P.L.L.C. has violated or is violating any provision of Title 48 Chapter 248 shall be as follows, but shall not

(Rule 0460-1-.09, continued)

terminate or interfere with the secretary of state's authority regarding dissolution pursuant to Tennessee Code Annotated Section 48-248-409.

- (a) Service of a written notice of violation by the Board on the registered agent of the D.P.L.L.C. or the secretary of state if one of the events described in Tennessee Code Annotated Section 48-248-104 or a violation of the provisions of Tennessee Code Annotated, Title 48, Chapter 248, occurs.
 - (b) The notice of violation shall state with reasonable specificity the nature of the alleged violation(s).
 - (c) The notice of violation shall state that the D.P.L.L.C. must, within sixty (60) days after service of the notice of violation, correct each alleged violation or show to the Board's satisfaction that the alleged violation(s) did not occur.
 - (d) The notice of violation shall state that, if the Board finds that the D.P.L.L.C. is in violation, the attorney general will be notified and judicial dissolution proceedings may be instituted pursuant to the appropriate sections of Tennessee Code Annotated, Title 48.
 - (e) The notice of violation shall state that proceedings pursuant to this section shall not be conducted in accordance with the contested case provisions of the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5, but that the D.P.L.L.C., through its agent(s), shall appear before the Board at the time, date, and place as set by the Board and show cause why the Board should not notify the attorney general and reporter that the organization is in violation of the Act or these rules. The Board shall enter an order that states with reasonable particularity the facts describing each violation and the statutory or rule reference of each violation. These proceedings shall constitute the conduct of administrative rather than disciplinary business.
 - (f) If, after the proceeding, the Board finds that a D.P.L.L.C. did violate any provision of Title 48, Chapter 248 or these rules, and failed to correct said violation or demonstrate to the Board's satisfaction that the violation did not occur, the Board shall certify to the attorney general and reporter that it has met all requirements of Tennessee Code Annotated, Sections 48- 248-409 (1)-(3).
- (7) Violation of this rule by any dentist individually or collectively while acting as a D.P.L.L.C. may subject the dentist(s) to disciplinary action pursuant to Tennessee Code Annotated, Section 63-5-124.

Authority: T.C.A. §§4-5-202, 4-5-204, 48-101-605, 48-101-608, 48-101-610, 48-101-618, 48-101-624, 48-101-628, 48-101-629, 48-101-630, 48-248-104, 48-248-202, 48-248-401, 48-248-404, 48-248-409, 48-248-501, 48-248-601, 48-248-602, 48-248-603, 63-5-105, 63-5-108, and 63-5-124. **Administrative History:** New rule filed September 4, 1998; effective November 18, 1998. Amendment filed June 13, 2003; effective August 27, 2003.

0460-1.10 CLINICAL TECHNIQUES-TEETH WHITENING. All teeth whitening formulations, except those sold over-the-counter, shall be prescribed and dispensed by a licensed dentist. Licensed dental hygienists or registered dental assistants are authorized to apply teeth whitening formulations, but only under the direct supervision of a licensed dentist.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-5-105, 63-5-108, and 63-5-115. **Administrative History:** Original rule certified June 7, 1974. Repeal filed August 26, 1980; effective December 1, 1980. New rule filed August 21, 2002; effective November 4, 2002.

0460-1-.11 INFECTION CONTROL.

- (1) The dentist shall ensure that at least one (1) of the following sterilization procedures is utilized daily for instruments and equipment:
 - (a) Steam autoclave
 - (b) Dry-heat
 - (c) Chemical vapor
 - (d) Disinfectant/chemical sterilant. U.S. Environmental Protection Agency (EPA) approved disinfectant shall be used in dilution amounts and specified time periods.
 - (e) Any procedure listed in MMWR, Vol 41, No. RR8, pp. 1-12, May 28, 1993 or successor publications.
- (2) The following instruments, unless disposable, shall be sterilized between patients, after removal of debris, by one (1) of the above methods provided in paragraph (1):
 - (a) Low speed handpiece contra angles, prophy angles and nose cone sleeves
 - (b) High speed handpieces and surgical handpieces
 - (c) Hand and orthodontic instruments
 - (d) Burs and bur changers, including contaminated laboratory burs and diamond abrasives
 - (e) Endodontic instruments
 - (f) Air-water syringe tips
 - (g) High volume evacuator tips
 - (h) Sonic or ultrasonic scalers and tips
 - (i) Surgical instruments
 - (j) Electro-surgery tips
 - (k) Metal impression trays
 - (l) Intra-oral radiographic equipment that can withstand heat sterilization
- (3) All heat sterilizing devices must be tested for proper function by means of a biological monitoring system that indicates microorganism kill. The biological monitoring system used must include a control to verify proper microbial incubation. In the event of a positive biological spore test, the dentist must take immediate action to ensure that heat sterilization is being accomplished. Immediate action is defined as following manufacturer guidelines and performing a second (2nd) biological spore test. In the event a second (2nd) positive biological spore test occurs, the device must be removed from service until repaired. Proof of such repair must be maintained with the testing documentation.
- (4) Documentation must be maintained on all heat sterilizing devices in a log reflecting dates and person(s) conducting the testing, or by retaining copies of reports from an independent testing entity. The documentation shall be maintained for a period of at least two (2) years, and shall be maintained

(Rule 0460-1-.11, continued)

in the dental office and be made immediately available upon request by an authorized agent of the Tennessee Department of Health.

- (5) Environmental surfaces that are contaminated by blood or saliva must be properly cleaned prior to disinfecting.
- (6) Disinfection must be accomplished with an appropriate disinfectant that is registered with the EPA and used in accordance with the manufacturer's instructions or with bleach used in a dilution ratio of one (1) to ten (10) or one hundred (100) [1:10 or 1:100]. The disinfection process must be followed between each patient in the absence of a barrier.
- (7) Barrier such as impervious backed paper, aluminum foil or plastic wrap must be used to cover surfaces or items that may be contaminated by blood or saliva and that are difficult or impossible to disinfect. The barrier must be removed, discarded, and then replaced between patients.
- (8) All single use or disposable items, labeled as such, used to treat a patient must be discarded and not reused.
- (9) Items such as impressions contaminated with blood or saliva must be thoroughly rinsed, disinfected, placed in, and transported to the dental laboratory in an appropriate case containment device that is properly sealed and labeled "Biohazard", or labeled with the universal symbol for hazardous materials, or placed in a red container.
- (10) Oral prosthetic appliances received from a dental laboratory must be washed with soap or a detergent and water, rinsed well, appropriately disinfected, and rinsed well again before the prosthetic appliance is placed in the patient's mouth.
- (11) Surgical or examination gloves, surgical masks, and eye protection with eye shields shall be worn by all dentists, dental hygienists and dental assistants while performing, or assisting in the performance of, any intra-oral dental procedure on a patient in which contact with blood and/or saliva is imminent in accordance with CDC recommendations. Surgical or examination gloves must be changed between patients. Gloves are never to be washed and reused. Surgical or examination gloves that are punctured or torn must be removed and replaced immediately with new gloves following rewashing of the practitioner's hands with soap and water.
- (12) All dentists, dental hygienists, and dental assistants shall follow hand hygiene guidelines in accordance with current CDC recommendations. Hand hygiene guidelines include, but are not limited to:
 - (a) Hands shall be washed with soap and water when hands are visibly dirty or contaminated with proteinaceous material, are visibly soiled with blood or other body fluids, before eating, and after using a restroom.
 - (b) Use alcohol-based hand rubs for routine decontamination of hands for all clinical indications, except as provided in subparagraph (a).
 - (c) Indications for hand hygiene include contact with a patient's intact skin, contact with environment surfaces/inanimate objects in the immediate vicinity of patients, before donning surgical or examination gloves, and after removal of gloves.
- (13) To minimize the need for emergency mouth-to-mouth resuscitation, a practitioner shall ensure that mouthpieces, resuscitation bags, or other ventilation devices, appropriate to the patient population served, are available.

(Rule 0460-1-.11, continued)

- (14) All dental health care workers shall take appropriate precautions, pursuant to OSHA standard 29 C.F.R. 1910.1030, "Bloodborne Pathogens" or its successor, to prevent injuries caused by needles, scalpels, and other sharp instruments or devices during procedures. If a needlestick injury occurs, the dentist shall comply with the requirements established by OSHA.
- (15) All sharp items and contaminated wastes must be packaged and disposed of according to the requirements established by any federal, Tennessee state, and/or local government agencies which regulate health or environmental standards.
- (16) All dental health care workers who have exudative lesions or weeping dermatitis shall refrain from contact with equipment, devices, and appliances that may be used for or during patient care, where such contact holds potential for blood or body fluid contamination, and shall refrain from all patient care and contact until condition(s) resolves unless barrier techniques would prevent patient contact with the dental health care worker's blood or body fluid.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-2-101, 63-5-105, 63-5-108, 63-5-115, and 63-5-124. **Administrative History:** Original rule certified June 7, 1974. Repeal filed August 26, 1980; effective December 1, 1980. New rule filed June 13, 2003; effective August 27, 2003.

0460-1-.12 THROUGH 0460-1-.15 REPEALED.

Authority: T.C.A. §§63-534, 63-5-105, 63-5-108, 63-5-115, 63-5-116, and 4-5-116. **Administrative History:** Original rule certified June 7, 1974. Repeal filed August 26, 1980; effective December 1, 1980.

0460-1-.16 PATIENT RIGHTS. Each patient shall, at a minimum, be afforded the following rights:

- (1) To be treated with respect, consideration and dignity.
- (2) To privacy in treatment.
- (3) To have their records kept confidential and private.
- (4) To be provided information concerning their diagnosis, evaluation, treatment options and progress.
- (5) An opportunity to participate in decisions involving their health care.
- (6) To refuse any diagnostic procedure or treatment and be advised of the consequences of that refusal.
- (7) To obtain a copy or summary of their personal dental record, pursuant to T.C.A. §§ 63-2-101, et seq.
- (8) To have appropriate assessment and management of pain.
- (9) To be free from mental and physical abuse. Should this right be violated, the dentist must notify the Tennessee Department of Human Services, Adult Protective Services or Tennessee Department of Children's Services immediately as required by law.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-2-101, 63-5-105, and 63-5-124. **Administrative History:** Original rule certified June 7, 1974. Repeal filed August 26, 1980; effective December 1, 1980. New rule filed June 13, 2003; effective August 27, 2003.

0460-1-.17 CONSUMER RIGHT-TO-KNOW REQUIREMENTS.

- (1) Malpractice Reporting Requirements - The threshold amount below which medical malpractice judgments, awards or settlements in which payments are awarded to complaining parties need not be

(Rule 0460-1-.17, continued)

reported pursuant to the “Health Care Consumer Right-To-Know Act of 1998” shall be twenty-five thousand dollars (\$25,000).

- (2) Criminal Conviction Reporting Requirements - For purposes of the “Health Care Consumer Right-To-Know Act of 1998”, the following criminal convictions must be reported:
 - (a) Conviction of any felony; and
 - (b) Conviction or adjudication of guilt of any misdemeanor, regardless of its classification, in which any element of the misdemeanor involves any one or more of the following:
 - 1. Sex.
 - 2. Alcohol or drugs.
 - 3. Physical injury or threat of injury to any person.
 - 4. Abuse or neglect of any minor, spouse or the elderly.
 - 5. Fraud or theft.
 - (c) If any misdemeanor conviction reported under this rule is ordered expunged, a copy of the order of expungement signed by the judge must be submitted to the Department before the conviction will be expunged from any profile.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-5-101, and 63-51-101, et seq. **Administrative History:** Original rule filed February 15, 2000; effective April 30, 2000.